

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

XPOINT TECHNOLOGIES, INC.,

Plaintiff,

v.

MICROSOFT CORP., INTEL CORP.,
MARVELL SEMICONDUCTOR, INC.,
HEWLETT-PACKARD CO., CYPRESS
SEMICONDUCTOR CORP., QUICKLOGIC
CORP., QUALCOMM INC., FREESCALE
SEMICONDUCTOR, INC., TEXAS
INSTRUMENTS INC., ALACRITECH, INC.,
GOOGLE INC., T-MOBILE USA, INC., HTC
CORP., HTC AMERICA, INC., APPLE INC.,
SONY CORP., SONY ERICSSON MOBILE
COMMUNICATIONS AB, SONY ERICSSON
MOBILE COMMUNICATIONS (USA), INC.
KONINKLIJKE PHILIPS ELECTRONICS N.V.,
PHILIPS ELECTRONICS NORTH AMERICA
CORP., LG ELECTRONICS, INC., LG
ELECTRONICS MOBILECOMM USA, INC.,
RESEARCH IN MOTION LTD., RESEARCH
IN MOTION CORP., MOTOROLA, INC.,
NOKIA CORP., NOKIA INC., PALM, INC.,
NVIDIA CORP., ADVANCED MICRO
DEVICES, INC., DELL INC., TOSHIBA
CORP., TOSHIBA AMERICA INFORMATION
SYSTEMS, INC., ASUSTEK COMPUTER
INC., ASUS COMPUTER INTERNATIONAL,
ACER INC., ACER AMERICA CORP., CISCO
SYSTEMS, INC., ZORAN CORP., AT&T
MOBILITY LLC, CELLCO PARTNERSHIP,
and SPRINT NEXTEL CORP.,
Defendants.

C.A. No. 09-628-SLR

DEFENDANT FREESCALE SEMICONDUCTOR, INC.'S
ANSWER TO AMENDED COMPLAINT AND COUNTERCLAIMS

Defendant Freescale Semiconductor, Inc. ("Freescale"), by its attorneys Bracewell &
Giuliani LLP hereby respond to the Complaint of Plaintiff, Xpoint Technologies, Inc. ("Xpoint"

or "Plaintiff"). Freescale denies each and every allegation contained in the complaint that is not expressly denied below.

1. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint, and therefore denies them.

2. Freescale admits that a copy of U.S. Patent No. 5,913,028 (the "028 Patent") was attached as Exhibit A to the Complaint. Freescale admits that this copy states on its face that it is entitled "Client/Server Data Traffic Delivery System and Method." Freescale denies that the '028 patent was issued on June 5, 1999. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 2.

3. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Complaint, and therefore denies them.

4. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Complaint, and therefore denies them.

5. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint, and therefore denies them.

6. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Complaint, and therefore denies them.

7. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint, and therefore denies them.

8. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint, and therefore denies them.

9. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint, and therefore denies them.

10. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Complaint, and therefore denies them.

11. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint, and therefore denies them.

12. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint, and therefore denies them.

13. Freescale denies that the Freescale i.MX 31 Application Processors infringe one or more claims of the '028 patent. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 13, and therefore denies them.

14. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint, and therefore denies them.

15. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Complaint, and therefore denies them.

16. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint, and therefore denies them.

17. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Complaint, and therefore denies them.

18. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Complaint, and therefore denies them.

19. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint, and therefore denies them.

20. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint, and therefore denies them.

21. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint, and therefore denies them.

22. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of the Complaint, and therefore denies them.

23. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Complaint, and therefore denies them.

24. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of the Complaint, and therefore denies them.

25. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Complaint, and therefore denies them.

26. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of the Complaint, and therefore denies them.

27. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the Complaint, and therefore denies them.

28. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the Complaint, and therefore denies them.

29. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of the Complaint, and therefore denies them.

30. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30 of the Complaint, and therefore denies them.

31. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31 of the Complaint, and therefore denies them.

32. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of the Complaint, and therefore denies them.

33. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of the Complaint, and therefore denies them.

34. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of the Complaint, and therefore denies them.

35. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 of the Complaint, and therefore denies them.

36. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of the Complaint, and therefore denies them.

37. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of the Complaint, and therefore denies them.

38. Freescale admits that at least one manual for the i.MX31 products states that camera preview can be performed in hardware allowing the CPU to be powered down. Freescale further admits that Freescale has sold Freescale i.MX21 processors to Kinpo and i.MX31 processors to Microsoft for use in Microsoft Zune. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 38, and therefore denies them.

39. Freescale admits that Motorola sold shares of Freescale Semiconductor, Inc. stock at an initial public offering in July 2004 and admits that Motorola distributed Freescale Semiconductor stock to Motorola shareholders in December 2004. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 39, and therefore denies them.

40. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 40 of the Complaint, and therefore denies them.

41. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41 of the Complaint, and therefore denies them.

42. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42 of the Complaint, and therefore denies them.

43. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 of the Complaint, and therefore denies them.

44. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44 of the Complaint, and therefore denies them.

45. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45 of the Complaint, and therefore denies them.

46. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of the Complaint, and therefore denies them.

47. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 of the Complaint, and therefore denies them.

48. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of the Complaint, and therefore denies them.

49. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of the Complaint, and therefore denies them.

50. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50 of the Complaint, and therefore denies them.

51. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 51 of the Complaint, and therefore denies them.

52. Freescale denies the allegations contained in Paragraph 52 of the Complaint.

53. Freescale denies that Nokia and Nokia US manufacture and sell cell phones containing infringing processors that are manufactured by Freescale. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 53, and therefore denies them.

54. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54 of the Complaint, and therefore denies them.

55. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55 of the Complaint, and therefore denies them.

56. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56 of the Complaint, and therefore denies them.

57. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57 of the Complaint, and therefore denies them.

58. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58 of the Complaint, and therefore denies them.

59. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 59 of the Complaint, and therefore denies them.

60. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60 of the Complaint, and therefore denies them.

61. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 61 of the Complaint, and therefore denies them.

62. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 62 of the Complaint, and therefore denies them.

63. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 63 of the Complaint, and therefore denies them.

64. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 64 of the Complaint, and therefore denies them.

65. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 65 of the Complaint, and therefore denies them.

66. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 66 of the Complaint, and therefore denies them.

67. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 67 of the Complaint, and therefore denies them.

68. Freescale admits that the Complaint includes claims of patent infringement that arise under the patent laws of the United States, 35 U.S.C. § 1 *et seq.* Freescale admits that this Court has subject matter jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a). Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 68, and therefore denies them.

69. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 69 of the Complaint, and therefore denies them.

70. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 70 of the Complaint, and therefore denies them.

71. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 71 of the Complaint, and therefore denies them.

72. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 72 of the Complaint, and therefore denies them.

73. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 73 of the Complaint, and therefore denies them.

74. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 74 of the Complaint, and therefore denies them.

75. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 75 of the Complaint, and therefore denies them.

76. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 76 of the Complaint, and therefore denies them.

77. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 77 of the Complaint, and therefore denies them.

78. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 78 of the Complaint, and therefore denies them.

79. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 79 of the Complaint, and therefore denies them.

80. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 80 of the Complaint, and therefore denies them.

81. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 81 of the Complaint, and therefore denies them.

82. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 82 of the Complaint, and therefore denies them.

83. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 83 of the Complaint, and therefore denies them.

84. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 84 of the Complaint, and therefore denies them.

85. Freescale Semiconductor admits the allegations contained in Paragraph 85 of the Complaint.

86. Freescale Semiconductor admits the allegations contained in Paragraph 86 of the Complaint.

87. Freescale Semiconductor admits that Freescale Semiconductor has asserted counterclaims in this district. Freescale admits that this Court has personal jurisdiction over Freescale Semiconductor. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 87, and therefore denies them.

88. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 88 of the Complaint, and therefore denies them.

89. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 89 of the Complaint, and therefore denies them.

90. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 90 of the Complaint, and therefore denies them.

91. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 91 of the Complaint, and therefore denies them.

92. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 92 of the Complaint, and therefore denies them.

93. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 93 of the Complaint, and therefore denies them.

94. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 94 of the Complaint, and therefore denies them.

95. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 95 of the Complaint, and therefore denies them.

96. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 96 of the Complaint, and therefore denies them.

97. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 97 of the Complaint, and therefore denies them.

98. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 98 of the Complaint, and therefore denies them.

99. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 99 of the Complaint, and therefore denies them.

100. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 100 of the Complaint, and therefore denies them.

101. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 101 of the Complaint, and therefore denies them.

102. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 102 of the Complaint, and therefore denies them.

103. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 103 of the Complaint, and therefore denies them.

104. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 104 of the Complaint, and therefore denies them.

105. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 105 of the Complaint, and therefore denies them.

106. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 106 of the Complaint, and therefore denies them.

107. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 107 of the Complaint, and therefore denies them.

108. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 108 of the Complaint, and therefore denies them.

109. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 109 of the Complaint, and therefore denies them.

110. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 110 of the Complaint, and therefore denies them.

111. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 111 of the Complaint, and therefore denies them.

112. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 112 of the Complaint, and therefore denies them.

113. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 113 of the Complaint, and therefore denies them.

114. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 114 of the Complaint, and therefore denies them.

115. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 115 of the Complaint, and therefore denies them.

116. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 116 of the Complaint, and therefore denies them.

117. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 117 of the Complaint, and therefore denies them.

118. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 118 of the Complaint, and therefore denies them.

119. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 119 of the Complaint, and therefore denies them.

120. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 120 of the Complaint, and therefore denies them.

121. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 121 of the Complaint, and therefore denies them.

122. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 122 of the Complaint, and therefore denies them.

123. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 123 of the Complaint, and therefore denies them.

124. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 124 of the Complaint, and therefore denies them.

125. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 125 of the Complaint, and therefore denies them.

126. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 126 of the Complaint, and therefore denies them.

127. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 127 of the Complaint, and therefore denies them.

128. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 128 of the Complaint, and therefore denies them.

129. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 129 of the Complaint, and therefore denies them.

130. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 130 of the Complaint, and therefore denies them.

131. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 131 of the Complaint, and therefore denies them.

132. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 132 of the Complaint, and therefore denies them.

133. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 133 of the Complaint, and therefore denies them.

134. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 134 of the Complaint, and therefore denies them.

135. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 135 of the Complaint, and therefore denies them.

136. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 136 of the Complaint, and therefore denies them.

137. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 137 of the Complaint, and therefore denies them.

138. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 138 of the Complaint, and therefore denies them.

139. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 139 of the Complaint, and therefore denies them.

140. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 140 of the Complaint, and therefore denies them.

141. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 141 of the Complaint, and therefore denies them.

142. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 142 of the Complaint, and therefore denies them.

143. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 143 of the Complaint, and therefore denies them.

144. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 144 of the Complaint, and therefore denies them.

145. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 145 of the Complaint, and therefore denies them.

146. Freescale admits that it is incorporated under Delaware law. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 146, and therefore denies them.

147. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 147 of the Complaint, and therefore denies them.

148. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 148 of the Complaint, and therefore denies them.

149. Freescale denies the allegations contained in Paragraph 149 of the Complaint, as applicable to Freescale. Except as expressly admitted in this Paragraph, Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 149 of the Complaint, and therefore denies them.

150. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 150 of the Complaint, and therefore denies them.

151. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 151 of the Complaint, and therefore denies them.

152. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 152 of the Complaint, and therefore denies them.

153. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 153 of the Complaint, and therefore denies them.

154. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 154 of the Complaint, and therefore denies them.

155. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 155 of the Complaint, and therefore denies them.

156. Freescale denies that the Freescale i.MX21 and i.MX 31 Application Processors infringe one or more claims of the '028 patent, directly or indirectly. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 156, and therefore denies them.

157. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 157 of the Complaint, and therefore denies them.

158. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 158 of the Complaint, and therefore denies them.

159. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 159 of the Complaint, and therefore denies them.

160. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 160 of the Complaint, and therefore denies them.

161. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 161 of the Complaint, and therefore denies them.

162. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 162 of the Complaint, and therefore denies them.

163. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 163 of the Complaint, and therefore denies them.

164. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 164 of the Complaint, and therefore denies them.

165. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 165 of the Complaint, and therefore denies them.

166. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 166 of the Complaint, and therefore denies them.

167. Freescale denies that the Freescale i.MX 31 Application Processors infringe one or more claims of the '028 patent, directly or indirectly. Freescale further denies that Freescale i.MX31 Application Processors are included in Motorola RAZR2 V8 products. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 167, and therefore denies them.

168. Freescale denies that the Freescale i.MX 31 Application Processors infringe one or more claims of the '028 patent, directly or indirectly. Freescale further denies that Freescale i.MX31 Application Processors are included in Nokia N78; Nokia E51-2; Nokia E51; Nokia N81; Nokia N81 8GB; Nokia 5700 XpressMusic; Nokia 6120 classic; Nokia 6121 classic; Nokia 6110 Navigator; Nokia N76; and Nokia 6290 products. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 168, and therefore denies them.

169. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 169 of the Complaint, and therefore denies them.

170. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 170 of the Complaint, and therefore denies them.

171. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 171 of the Complaint, and therefore denies them.

172. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 172 of the Complaint, and therefore denies them.

173. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 173 of the Complaint, and therefore denies them.

174. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 174 of the Complaint, and therefore denies them.

175. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 175 of the Complaint, and therefore denies them.

176. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 176 of the Complaint, and therefore denies them.

177. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 177 of the Complaint, and therefore denies them.

178. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 178 of the Complaint, and therefore denies them.

179. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 179 of the Complaint, and therefore denies them.

180. Freescale lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 180 of the Complaint, and therefore denies them.

181. Freescale denies the allegations contained in Paragraph 181 of the Complaint, as applicable to Freescale. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 181, and therefore denies them.

182. Freescale denies the allegations contained in Paragraph 182 of the Complaint, as applicable to Freescale. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 182, and therefore denies them.

183. Freescale denies the allegations contained in Paragraph 183 of the Complaint, as applicable to Freescale. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 183, and therefore denies them.

184. Freescale denies the allegations contained in Paragraph 184 of the Complaint, as applicable to Freescale. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 184, and therefore denies them.

185. Freescale denies the allegations contained in Paragraph 184 of the Complaint, as applicable to Freescale. Except as expressly admitted in this Paragraph, Freescale lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 185, and therefore denies them.

186. Freescale requests that the Court Deny the relief requested by Plaintiff in the Paragraph entitled "PRAYER FOR RELIEF" as applicable to Freescale.

AFFIRMATIVE DEFENSES

Freescale's Affirmative Defenses are listed below. Freescale reserves the right to amend its Answer to add additional Affirmative Defenses, including inequitable conduct.

FIRST DEFENSE

187. Freescale does not infringe, and has not infringed (either directly, contributorily or by inducement), any valid enforceable claim of the '028 Patent.

SECOND DEFENSE

188. The '028 Patent is invalid because the alleged invention fails to satisfy the conditions for patentability specified in 35 U.S.C. § 102.

THIRD DEFENSE

189. The '028 Patent is invalid because the alleged invention fails to satisfy the conditions for patentability specified in 35 U.S.C. § 103.

FOURTH DEFENSE

190. The '028 Patent is invalid because the alleged invention fails to satisfy the conditions for patentability specified in 35 U.S.C. § 112.

FIFTH DEFENSE

191. Plaintiff's claims against Freescale are barred by the doctrines of laches and/or equitable estoppel.

SIXTH DEFENSE

192. To the extent that Plaintiff, or any predecessors in interest to the '028 Patent, failed to properly mark any of the relevant products as required by 35 U.S. C. § 287 or otherwise give proper notice that Freescale's actions allegedly infringed the '028 Patent, Freescale is not liable to Plaintiff for the acts alleged to have been performed before Freescale received actual notice that it was allegedly infringing the '028 Patent.

SEVENTH DEFENSE

193. To the extent that Plaintiff asserts that Freescale indirectly infringes, either by contributory infringement or inducement of infringement, Freescale is not liable to Plaintiff for the acts alleged to have been performed before Freescale knew that its actions allegedly cause indirect infringement.

EIGHTH DEFENSE

196. To the extent Plaintiff alleges infringement against products that are in whole or in part licensed (either directly or impliedly), Plaintiffs claim are barred by such license and/or under the doctrine of patent exhaustion.

NINTH DEFENSE

197. Plaintiff cannot prove that this is an exceptional case justifying award of attorney fees against Freescale pursuant to 35 U.S.C. § 285.

TENTH DEFENSE

198. Plaintiff is not entitled to injunctive relief because any alleged injury to Plaintiff is not immediate or irreparable and Plaintiff has an adequate remedy at law for any claims it can prove.

ELEVENTH DEFENSE

199. Freescale's investigation of its defenses is continuing, and Freescale expressly reserves the right to allege and assert any additional affirmative defenses under Rule 8 of the Federal Rules of Civil Procedure, the patent laws of the United States and any other defense, at law or in equity, that may now exist or in the future be available based upon discovery and further investigation in this case. Freescale also expressly incorporates by reference herein all defenses pled by defendants in this action in their respective answers to the Complaint.

FREESCALE'S COUNTERCLAIMS

200. Defendant and Counter-Plaintiff Freescale incorporates the foregoing paragraphs as if fully set forth herein and further pleads the following counterclaims against Plaintiff.

THE PARTIES

201. Freescale is a Delaware Corporation with its principal place of business at 6501 William Cannon Drive West, Austin, Texas.

202. Plaintiff Xpoint is a corporation organized and existing under the laws of Delaware, having its principal place of business in Boca Raton, Florida.

JURISDICTION AND VENUE

203. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1131 and 1138(a) because the action concerns a federal question relating to patents arising under Title 35 of the United States Code, and pursuant to 28 U.S.C. §§ 2201 *et seq.* because this is a civil action for declaratory judgment.

204. This Court has personal jurisdiction over Plaintiff by virtue of its having submitted to the jurisdiction by filing the underlying lawsuit.

CLAIMS FOR RELIEF

DECLARATORY JUDGMENT COUNTERCLAIM

FIRST DECLARATORY JUDGMENT COUNTERCLAIM

(Noninfringement/Invalidity of the '028 Patent)

205. Freescale incorporates by reference the allegations of the foregoing paragraphs as it fully set forth herein.

206. Freescale has not directly infringed, indirectly infringed, contributed to or induced infringement of any valid and enforceable claim of the '028 Patent, and has not otherwise committed any acts in violation of 35 U.S.C. § 271.

207. The '028 Patent is invalid for failing to meet the conditions for patentability set for at 35 U.S.C. § 101 *et seq.*, including, without limitation, 35 U.S.C. §§ 102, 103, and/or 112.

208. An actual controversy exists between Freescale and Plaintiff concerning the alleged infringement and validity of the '028 Patent by virtue of Plaintiff's allegation of infringement.

209. Freescale is entitled to judgment from this Court that the '028 Patent is not infringed by Freescale and is invalid.

PRAYER FOR RELIEF

WHEREFORE, Freescale prays for an Order and Judgment from this Honorable Court:

- A. declaring that Freescale does not infringe any claim of the '028 Patent;
- B. declaring that each and every claim of the '028 Patent is invalid;
- C. declaring that the '028 Patent is unenforceable against Freescale by the doctrines of laches and/or equitable estoppel;
- D. adjudging that Plaintiff is not entitled to any injunctive relief sought by Plaintiff;
- E. adjudging that Plaintiff is not entitled to any monetary relief;
- F. adjudging that Plaintiff is not entitled to any other relief;
- G. adjudging that Plaintiff is not entitled to a finding that this case is exceptional within the meaning of 35 U.S.C. § 285; and

H. granting such other and further equitable or legal relief as the Court deems just and proper.

Dated: December 18, 2009

FISH & RICHARDSON P.C.

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